INFORMATION BULLETIN # 32

INCOME TAX

JANUARY, 2003

(Replaces Information Bulletin #32, dated August, 2000)

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SUBJECT: General Information on County Income Taxes

REFERENCE: IC 6-3.5-1.1; IC6-3.5-6; IC 6-3.5-7

INTRODUCTION

The 1973 Indiana General Assembly enacted legislation which provides each county the option of adopting a County Adjusted Gross Income Tax (CAGIT). The 1984 Indiana General Assembly enacted legislation which provides each county the option of adopting an alternative county income tax, the County Option Income Tax (COIT). The 1987 Indiana General

Assembly enacted legislation which provides each county with the option of adopting a third income tax, that can stand alone or may be supplementary to the first two. This third tax is known as the County Economic Development Income Tax (CEDIT). CAGIT was enacted to provide the adopting counties with additional funds, to be used in part for property tax relief. COIT was enacted to provide counties with additional funds, part of which will be used to: (1) replace the amount, if any, of the property tax revenue lost due to allowing an increased homestead credit within the county, and (2) to make distributions of distributive shares to the civil taxing units of a county. CEDIT was enacted to allow counties to raise funds for local economic development projects.

I. County of Residence and County of Work

The taxpayer's county of residence is determined as of January 1 each year. For purposes of county tax, an individual's county of residence is determined by the county where the taxpayer maintains his home.

The taxpayer's county of principal work activity is also determined as of January 1 each year. An individual's county of principal work activity is that county where the taxpayer receives the greatest percentage of his gross income from salaries, wages, commissions, fees or other income of this type. If an individual is self-employed, the county of principal work activity is that county where the individual's principal place of business is located. If an individual has two or more sources of income from two or more counties, the principal source will be evidenced by the percent of income received from each county and the percent of time spent in each county.

II. Change in County Residence or County of Work Within the Taxable Year

The county of residence and county of principal work activity determined as of January 1 each year are fixed as of that date for county tax purposes for the entire tax year. Any change in an individual's county of residence or county of principal work activity during the year will not affect the amount of county tax for which he is liable. Form WH-4 establishes, for withholding purposes, the taxpayer's county of residence or county of principal work activity. If an individual moves or changes his place of employment during the year, a new WH-4 must be completed. Completion of a new WH-4 will serve only to establish the county of residence and county of principal work activity for the ensuing year.

III. Income Subject to County Income Tax

If an individual is a resident of a county which adopts the county tax, his entire adjusted gross income will be subject to the county tax at the tax rate imposed by that county. The adjusted gross income for county tax purposes will be the Indiana adjusted gross income, plus any adjustment taken for the non-Indiana locality earnings deduction.

If an individual resides in a non-adopting county, but his principal place of business or employment is in an adopting county, only the adjusted gross income derived from his principal place of business or employment is subject to the county tax at the nonresident rate.

The only deductions allowed from principal work activity income are those which directly apply to the production of income from one's principal work activity. They would not include Indiana deductions which are not related to the production of income.

The following deductions are considered directly related to the production of principal work activity income:

- reimbursed employee business expenses to the extent that they are deductible in computing Indiana adjusted gross income and which are attributable to the income from a county taxpayer's principal work activity; and

- payments to self-employed retirement plans and an IRA attributable to income from a county taxpayer's principal work activity, to the extent such payments are deductible in computing Indiana adjusted gross income, are deductible to arrive at the county adjusted gross income subject to tax.

If an individual resides outside the State of Indiana, but the taxpayer's principal place of work activity is in an Indiana adopting county, only the adjusted gross income derived from the Indiana adopting county is subject to county tax. Reciprocal agreements between the State of Indiana and other states do not affect the taxpayer's liability under the county tax.

IV. Tax Rates

Counties that have adopted CAGIT have the option of adopting one of three different rates for county residents who are subject to CAGIT: one-half of one percent (.005), three-fourths of one percent (.075), or one percent (.01). Also, the adopting county must assess all residents of nonadopting counties who derive their principal source of income either from employment or business in the adopting county at the rate of one-fourth of one percent (.0025). The nonresident rate applies only when the taxpayer's home county has not adopted the County Option Income Tax or the County Economic Development Income Tax. There are several counties permitted by statute to adopt an additional tax exceeding one percent (.01) for special projects.

Counties that have adopted COIT must initially impose the rate at two-tenths of one percent (.002) on resident county taxpayers, and at one-fourth of the county resident rate or five hundredths of one percent (.0005) for taxpayers subject to the nonresident county rate. If adopted, the COIT takes effect on July 1 of the tax year in which it is adopted. If the COIT rate is imposed on the taxpayers of a county, then the COIT rate increases for residents by one-tenth of one percent (.001) (to a maximum of .006) each succeeding July 1, unless frozen or rescinded by the county income tax council. The council can then pass an ordinance to increase the resident rate to a maximum of one percent (.01) in increments of one-tenth of one percent per year. The COIT rate in effect for taxpayers who are subject to the nonresident rate of the county is at all times one-fourth of the rate imposed upon resident county taxpayers.

The County Economic Development Income Tax (CEDIT) may be imposed at several different rates. Those rates are: one-tenth of one percent (.001), two-tenths of one percent (.002), twenty-five hundredths of one percent (.0025), three tenths of one percent (.003), thirty-five hundredths of one percent (.0035), four-tents of one percent (.004), forty-five hundredths of one percent (.0045), or one-half of one percent (.005).

Counties may adopt an additional CEDIT rate of twenty-five hundredths of one percent (.0025) to offset the increased property tax on homesteads resulting from the deduction of the assessed value of inventory in the county. If the county does not elect to permit the deduction for the assessed value of inventory in the county, the county is prohibited from imposing the additional CEDIT rate.

If a county has adopted CAGIT, the combined rate of CAGIT and CEDIT may not exceed one and one-fourth percent (.0125) unless specific legislation is passed to allow a county to exceed the maximum rate. If a county has adopted COIT, the combined rate of COIT and CEDIT may not exceed one percent (.01).

There is no separate CEDIT rate for resident or nonresident taxpayers. The taxpayer pays the full rate of tax even if he is a nonresident.

V. County Tax Withheld

The State copy of the Federal Wage and Tax Statement, Form W-2, usually indicates the amount, if any, of CAGIT, COIT, and/or CEDIT withheld. A separate line on the individual income tax return is provided to take credit for local taxes withheld.

VI. Credit for the Elderly or Totally Disabled

A credit against the county tax is available for persons who qualify for the Federal Credit for the Elderly and the Permanently and Totally Disabled. The credit is the lesser of: the product of: his or her credit for the elderly for that same taxable year; multiplied by a fraction, the numerator of which is the CAGIT, COIT and CEDIT rate imposed against the county taxpayer, and the denominator of which is fifteen hundredths (.0015); or the amount of CAGIT, COIT and CEDIT tax imposed on the county taxpayer.

VII. Credit for Taxes Paid to Localities Outside of Indiana

A credit against county tax is available to taxpayers who are also subject to a local income tax in another state. The credit is the lesser of: (1) the amount of local income tax actually paid to the locality in the other state; (2) the amount of income taxed by the locality outside of Indiana multiplied by the Indiana county tax rate to which the taxpayer is subject; or (3) the actual amount of county income tax due.

A copy of the tax return filed with the out-of-state locality must be attached to the Indiana return in order to substantiate the credit claimed. When no return is required by an out-of-state locality, a copy of the W-2 form showing the local tax withheld must be attached to the return.

Nonresidents of Indiana may not claim this credit against their Indiana county tax liability. On a joint return, the husband and/or wife should compute the credit separately. Applying the above limitations, any excess credit of one spouse cannot be used to reduce the county tax liability of the other spouse.

Kenneth L. Miller
Commissioner